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March 11, 2005

Stephen J. Salamon  
Chairman  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

Dear Steve:

In consideration of CareFirst BCBS's 3.2 million members, I am writing this letter to emphasize our commitment to assisting the MHCC by increasing our participation in the various issues, projects, and processes that come before you that affect the quality, cost, and availability of health care in Maryland.

On September 10, 2004, our consultant, Hal Cohen, submitted a letter suggesting that several changes should be made to the MHCC's procedural regulations. His suggested changes were designed to facilitate CareFirst's participation in the MHCC's activities and to make our participation more effective and meaningful. Among the suggested changes were the following:

- INTERESTED PARTY STATUS

CareFirst has asked to be made an automatic Interested Party in all capital projects that exceed \$25,000,000. The current method of establishing interested party status is awkward and inappropriate. For example, CareFirst was denied interested party status in the review of a recent Union Hospital of Cecil County CON project because we supported the application and gave the reasons for that support. We do not believe that expressing our support for a particular project, based on specific reasons, should be grounds for the MHCC to refuse us status as an interested party. In particular, denial of interested party status leaves CareFirst with no appeal rights if the MHCC rejects a project or attaches conditions that we do not consider to be in the interest of our members. It also deprives the MHCC of any comments that we might have on any such conditions or other issues that may arise during a review.

- METHODOLOGIES

Health costs are continuing to spiral upward at rates that are making health insurance less affordable for many Marylanders. Hospitals, in particular, are currently preparing a large number of capital projects that will add billions of dollars to health care bills in the next decade. Currently, the State Health Plan (SHP) and the associated Certificate of Need (CON) regulations and methodologies do not adequately address many important issues including the need for emergency room and ancillary service capacities (e.g., imaging services). The volume and cost of these services are escalating very rapidly and specific methodologies are needed to ensure that they are appropriately planned for the future.

I was pleased to see the emphasis that the MHCC and MIA gave to emergency department usage in their recent "*Interim Report on the Study of the Affordability of Health Insurance in Maryland.*" However, the *Interim Report* included a recommendation for a joint study of this issue by regulators and providers without any mention of the inclusion of payer (or business) community representatives. By means of this letter, I am requesting that CareFirst be included in this study.

- PROCESSES

We believe that the CON review processes are currently structured in a way that makes active participation by interested parties difficult and less than maximally valuable to the MHCC. Specifically, CON applicants usually spend months, and often 1-2 years, preparing their CON applications. These applications typically include complex studies designed to maximize the likelihood that the given project will be approved by the MHCC. Applicants often file incorrect or incomplete applications, and include undocumented assertions or obscure computations, which are frequently flawed. As a result, the MHCC staff typically finds it necessary to issue one or more rounds of completeness questions to resolve ambiguities, discrepancies, or other defects in the applications. This process greatly increases the workload for MHCC staff and for interested parties. Interested parties have only thirty (30) days to comment on these applications after they have been docketed. This short timeframe frequently prevents the development of alternative studies or data analyses that would check the results presented in the CON application. In addition, throughout this process, interested parties must arrange to make copies of any changes they learn about without receiving any time extension or other relief despite the fact that the additional review burden was frequently caused by the initial submission of a flawed application.

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The correction of these imbalances will require significant changes to the review process and we are interested in participating in the related discussions. However, there is one simple suggestion that we previously made that could be quickly and easily implemented - i.e. require all CON applications (including all exhibits and all changes, modifications, and subsequent submissions of any kind) to be filed not only in paper form with the MHCC but also in electronic "pdf" files with the MHCC and with any interested parties at the time of submission to the MHCC. This approach would make copies of all materials available quickly and inexpensively to all parties.

- TASK FORCES AND COMMITTEES

I am hereby asking the MHCC to routinely invite CareFirst to participate in Task Forces and committees that deal with issues that impact our subscribers. As Maryland's largest health insurer, CareFirst's participation in these discussions would give a voice to the entire payer community and the Marylanders that we cover through our insurance policies. We strongly encourage other health insurers to provide you with their comments. The history of regulation suggests that vested provider interests need to be balanced by inputs from payers and other representatives of the public. In particular, regulatory bodies need to be especially diligent in soliciting such inputs because provider interests usually are highly organized and concentrated and willing to spend considerable money to promote their particular projects. CareFirst has been contributing to this balancing process before the Health Services Cost Review Commission for many years and is prepared to play a similar role with the MHCC.

I understand that the MHCC will soon begin its study of proposed changes to its procedural regulations, including the changes suggested by CareFirst, under the leadership of Commissioner Nicolay. We look forward to participating in that endeavor.

Thank you for your consideration.

Yours truly,



William L. Jews

cc: Pam Barclay, Acting Executive Director of MHCC  
John Colmers, Chairman, CareFirst of Maryland, Inc.  
Hal Cohen  
David D. Wolf, EVP